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July 2, 2008

VIA ELECTRONIC COMMENT FILING SYSTEM (ECFS)

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Communication in the Matter of FCC Broadband Data Report, Further
Notice of Proposed Rulemaking, WC Docket No. 07-38

Dear Ms. Dortch:

Please be advised that on July 1, 2008, Annette DuPont-Ewing, Executive Director, Kentucky Municipal Utilities Association; Joe Nipper, Senior Vice President Government Relations, American Public Power Association ("APPA"); Corry Marshall, Government Affairs Representative, APPA, and the undersigned, met with Commissioner Michael J. Copps and Scott Deutchman, Legal Advisor to Commissioner Copps, regarding the above-referenced proceeding. The parties discussed their concerns about broadband mapping as outlined in the attached documents: (1) The Problems with the "ConnectKentucky/Connected Nation" Broadband Mapping and Information Model; and (2) APPA Resolution 08-12, In Support of Public Entities Undertaking Broadband Mapping.

We are filing this notice with attachments in accordance with Rule 1.1206 of the Commission's Rules.

Very truly yours,



Gloria Tristani

cc: Commissioner Michael J. Copps (carolyn.conyers@fcc.gov)
Scott Deutchman (scott.deutchman@fcc.gov)

Attachments

**THE PROBLEMS WITH THE
“CONNECTKENTUCKY/CONNECTED NATION”
BROADBAND MAPPING AND INFORMATION MODEL**

1. Broadband deployment data must be collected and delivered in a transparent, verifiable manner.
 - The CK/CN model doesn't do that: Data is collected, interpreted and reported by a private non-profit entity and shielded from government and public input, oversight, and verification.
 - The nature and control of the private non-profit is itself also non-transparent, but appears to be dominated by incumbent telcos and, to a lesser extent, incumbent cable operators. CK charges high membership fees that effectively exclude most muni utilities.
2. Government broadband policy can be no better than the data on which it relies. Without assurances that broadband deployment mapping is performed objectively, transparently and verifiably, government broadband policy based on that data will be skewed, and there is a significant risk that it will be tilted against muni broadband and in favor of private providers who participate in and control CK/CN.
 - In fact, independent sources indicate that CK's broadband mapping data is not accurate, and overstates broadband availability.
3. Broadband deployment data collection and mapping should therefore be a government, not a private, function.
4. CK receives federal and state funding to perform its tasks of mapping and broadband promotion, but there is no effective mechanism to ensure accountability as to how CK actually uses those funds.
 - CK tends to promote telco-provided broadband to local businesses, even though telco DSL service is not very “broad” broadband at all.
5. There are pending efforts on the Hill (H.R. 3919 and S. 1492) and by CN at the FCC (in the *Broadband Data Rulemaking* docket) to “lock in” the CK/CN model at the federal level.

Resolution 08-12
Sponsor: Franklin (Kentucky) Electric Plant Board

In Support of Public Entities Undertaking Broadband Mapping

Universal broadband deployment is critical for the economic health of our nation. It is especially important to promote broadband deployment in rural and historically underserved areas. All well-qualified service providers, including municipal utilities, should be encouraged to provide broadband service to such areas, and no segment of the broadband service provider market should be competitively disadvantaged.

To formulate effective and competitively neutral policies to promote broadband deployment in rural and historically underserved areas, data on the status of broadband deployment must be transparently-generated and compiled, verifiable and thus reliable. Without such data, policymakers and broadband service providers such as municipal utilities cannot make informed judgments on where broadband deployment is in most need of promotion and the appropriate methods to promote that deployment. The American Public Power Association (APPA) therefore strongly supports the gathering and reporting of accurate and reliable broadband deployment data and mapping.

The valuable goals of broadband mapping, however, have in many respects been frustrated by initiatives to privatize broadband deployment mapping and reporting and to prevent government performance of these important public functions. The movement originated with ConnectKentucky, a private non-profit organization with reportedly close ties to AT&T but whose full nature is undisclosed at its website. ConnectKentucky has succeeded in securing from the Commonwealth of Kentucky the exclusive authority to

gather and report broadband deployment mapping in that state, as well as state funding to perform that task. The broadband deployment information ConnectKentucky receives from providers is confidential and thus shielded from public view or any means of objective verification. Although depicted as a “public/private partnership,” ConnectKentucky is “public” only in the sense that it receives taxpayer money from the state government; its activities are purely private. ConnectKentucky also charges a \$20,000 membership fee, an amount that effectively excludes most municipal utilities. And ConnectKentucky tends to promote primarily the broadband services of incumbent providers such as AT&T, whose DSL service is actually far less “broad” than the broadband service that municipal utilities and others provide. Moreover, ConnectKentucky’s claims of success in promoting broadband deployment in Kentucky are inconsistent with the conclusions reached by more independent sources, which have found little or no gain in Kentucky broadband deployment as a result of ConnectKentucky’s activities.

ConnectKentucky led to the creation of Connected Nation, a national organization whose goal is to spread the ConnectKentucky model to other states and to the federal level. Connected Nation has successfully expanded the model to Tennessee, Ohio, West Virginia and South Carolina, and other states are considering following suit. Moreover, Connected Nation has backed the introduction of several bills in Congress, each of which would, in one form or another, establish a federal grant program for state-level broadband mapping , with grant eligibility requirements that would give Connected Nation or its state-level affiliates the inside track on receiving federal grants and would prohibit grants

to state agencies or to entities whose board of directors has a majority of individuals employed by or affiliated with federal, state or local governments.

As FCC Commissioner Michael J. Copps has noted, “creating good data is really a core function of government.” Broadband deployment mapping and reporting should therefore not be privatized. It instead should be a transparent, competitively neutral process, and one that permits municipal utilities and their representatives to participate on an equal footing with incumbent private telephone and cable companies and to receive the same benefits as those companies. That will not occur if the Connected Nation model, at least in its present form, is adopted at the state or federal level.

NOW, THEREFORE, BE IT RESOLVED: That the American Public Power Association (APPA) believes that broadband reporting and mapping should be a transparent process performed by government instead of private entities;

BE IT FURTHER RESOLVED: That any broadband mapping grant program enacted by Congress provide that only a state agency is eligible for the grants, and that any such grant is conditioned on state-level broadband mapping being a transparent process in which municipal utilities may equally participate; and

BE IT FURTHER RESOLVED: That the Federal Communications Commission adopt rules in Docket Number 07-38 to establish new national broadband mapping and reporting rules that are transparent, that appropriately define broadband, that differentiate

between business and residential customers, and that provide due regard for the unique role of municipal utilities in meeting national broadband deployment objectives.

As adopted June 24, 2008 by the membership of the American Public Power Association at its annual meeting in New Orleans, Louisiana.